UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,444	07/31/2001	Paul Dennis Stultz	M-11710 US	4212

7590   09/17/2008

David L. McCombs
Haynes and Boone, LLP
901 Main Street
Suite 3100
Dallas, TX 75202-3789

EXAMINER
PYZOCHA, MICHAEL J

ART UNIT	PAPER NUMBER
2137	

MAIL DATE	DELIVERY MODE
09/17/2008	PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte PAUL DENNIS STULTZ and ROGER M. BLOOD

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Appeal 2007-1338
Application 09/919,444
Technology Center 2100

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Decided: September 17, 2008

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Before JAMESON LEE, SALLY C. MEDLEY and MICHAEL P.
TIERNEY, *Administrative Patent Judges*.

MEDLEY, *Administrative Patent Judge*.

DECISION ON APPEAL

A. Statement of the Case

Dell Products L.P. ("Dell"), the real party in interest, seeks review under 35 U.S.C. § 134(a) of a Final Rejection of claims 1, 3-12, 14-24 and 26-32, the only claims remaining in the application on appeal. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

The application on appeal was filed 31 July 2001.

The Examiner relies on the following prior art in rejecting the claims on appeal:

Hobson et al. ("Hobson")   6,065,067   May 16, 2000
Willner et al. ("Willner")   6,064,666   May 16, 2000
NEC Specification, 1997, pp. 2-8 through 2-35
Microsoft Press Computer Dictionary, Third Edition, 1997, p. 469

B. Issue

The issue before us is whether Dell has sustained its burden of showing that the Examiner erred in rejecting appealed claims 1, 3-12, 14-24 and 26-32 as unpatentable under 35 U.S.C. § 103(a) over NEC, Microsoft, Hobson and Willner.

C. Findings of Fact ("FF")

The record supports the following findings of fact as well as any other findings of fact set forth in this opinion by at least a preponderance of the evidence. Additional findings as necessary may appear in the Analysis portion of the opinion.

The Invention

1. The invention is related to a system and method for preventing a user from interfering with a computer system's operations during the power-on self test (POST) procedure. Spec. 4-5.

2. The system stores a pre-selected input and a password. Spec. 4-5 and 8-9.

3. The system includes a processor that is instructed to be non-responsive to inputs except the pre-selected input. Spec. 4-5 and 8-9.

4. When a comparison indicates that a user input matches the pre-selected input, the user is prompted for a password which has a timeout. Spec. 4-5 and 8-9.

5. The processor is instructed to ignore an input other than the preselected input if the password does not match the stored password or the password times out. Spec. 4-5 and 8-9.

6. The processor is instructed to process additional inputs besides the pre-selected input if the password matches the stored password and is entered within the time out period. Spec. 4-5 and 8-9.

7. The processor is also instructed to cause a system boot or reboot not to be halted during a POST procedure by an unauthorized user, by adding a timeout to the password. Claims 1, 12 and 23 (added by amendment filed 09 May 2005).

Claims on Appeal

8. Claims 1, 12 and 23 are independent.

9. Claims 3-11, 14-22, 24 and 26-32 are directly or indirectly dependent on claims 1, 9 and 16 respectively.

10. Claim 1, which we reproduce from the Claims Appendix of the Appeal Brief, reads as follows:

> 1. A computer system comprising:
> a processor;
> a memory coupled to the processor, the memory storing a
> pre-selected input characteristic;
> a stored password;

instructions, during a POST procedure when security is enabled, causing the computer system to enter a mode non-responsive to inputs except the pre-selected input characteristic;

instructions causing a system boot or reboot not to be halted during a POST procedure, by an unauthorized user, by adding a timeout to the password;

instructions causing the processor to compare a first input entered by the user to the pre-selected input characteristic;

instructions causing the processor to ignore an input during a power-on self test procedure unless the first input matches the pre-selected input characteristic;

instructions causing the processor to prompt a user of the computer system to enter a password when the first input matches the pre-selected input characteristic;

in response to a password entry, the processor ignores an input other than the pre-selected input characteristic if:

a) the password is not entered within a pre-specified time period after the prompt; and

b) the password is entered within the pre-specified time period, but there is no match with the stored password; and

in response to a password entry, the processor processes other inputs in addition to the pre-selected input characteristic if:

a) the password is entered within the pre-specified time period and matches the stored password.

Prior Art

Hobson

11. Referring to figure 3 below [numbers from **figure 3** inserted], Hobson describes that computer start-up or POST processing begins with a system BIOS (basic input-output system) execution at step [**300**]. Col. 2, ll. 44-46.

12. At step [**302**], the system determines whether the user wants to change the current resource setting (CRS). Col. 2, ll. 46-48.

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13. If there are no desired changes to be made, the system continues and loads the CRS and may also load the possible resource settings (PRS) at steps [**306**] and [**308**]. Col. 2, ll. 48-50, 56-63.

14. The operating system is loaded at step [**310**] following the completion of the BIOS start-up routines. Col. 2, ll. 63-65.

15. If at step [**302**], the user wants to change system resource settings, the system can be notified by a keystroke such as F10. Col. 3, ll. 14-17.

16. The system receives the F10 modify resource command and executes a low-level system set-up application (i.e., a system setup utility). Col. 3, ll. 17-19.

17. The user is prompted for a password at step [**312**] if the resources are locked. Col. 3, ll. 20-21.

18. If the password is entered correctly at step [**314**], the changes entered by the user are saved at step [**316**] and the process returns to step [**302**] where the start-up or POST processing begins again. Col. 3, ll. 21-26.

19. If the password is entered incorrectly at step [**314**], the start-up or POST processing begins again at step [**302**]. Col. 3, ll. 24-26.

Figure 3 from Hobson is reproduced below.
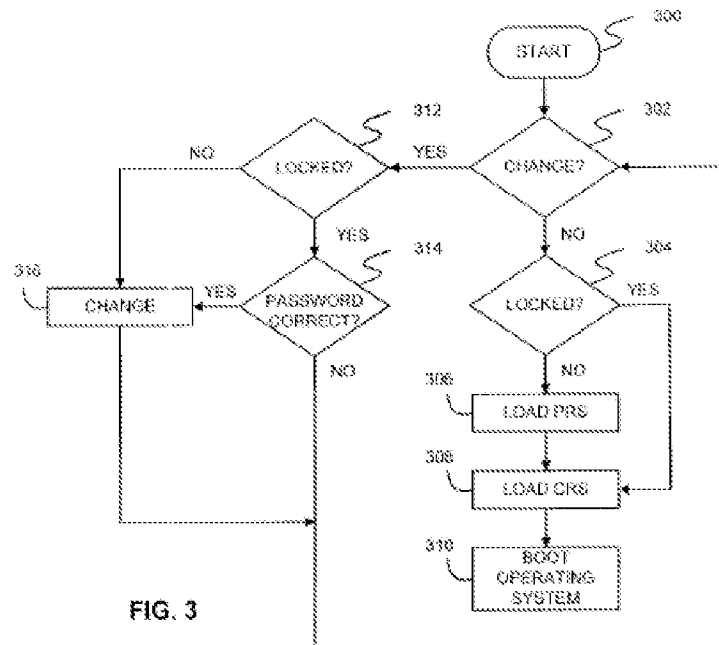

FIG. 3

Figure 3 depicts a flow chart of BIOS execution including POST processing.

Willner

20. Willner describes a service network with a Cross Service Association
(CSA) system that includes or is interconnected with a Cross Service
Association Domain mapping (CSADm) system. Col. 8, ll. 18-41.

21. The CSA system provides association and integration for a plurality of
users and services (e.g., voice services or online services). Col. 8, ll. 36-
41.

22. Willner describes that during cross domain association mapping the
CSA receives a request for a service from a user with an identifier. Col.
11, l. 65-col. 12, l. 7, fig. 2.

23. Willner describes that the CSA examines the user's request to determine
if a password is required and requests a password if necessary. Col. 12,
ll. 8-10, fig. 2.

24. Willner describes that if the password is wrong and/or times out, the request is denied. Col. 12, ll. 12-13 and fig. 2.

25. Willner describes that if the password is verified or not required, the CSA requests an identifier association for the user for the requested service. Col. 12, ll. 14-22.

D. Principles of Law

"[T]he examiner bears the initial [examination] burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability. If that burden is met, the burden of coming forward with evidence or argument shifts to the applicant." *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

"After evidence or argument is submitted by the applicant in response, patentability is determined on the totality of the record, by a preponderance of evidence with due consideration to persuasiveness of argument." *Id.*

E. Analysis

Claim 1 is representative and recites the sole disputed limitation "instructions causing a system boot or reboot not to be halted during a POST procedure, by an unauthorized user, by adding a timeout to the password". FF[1] 10.

The Examiner found that the combination of NEC, Microsoft, Hobson and Willner teach "not halting a boot or reboot in progress during a POST procedure, by adding a timeout." Ans. 11. Specifically, the Examiner found that Hobson describes restarting the computer when an incorrect password is entered. Final Rejection 5 and Ans. 5, 9. Specifically, the Examiner found that Willner describes "performing the same action when either an incorrect

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[1] FF indicates Finding of Fact.

password is entered or a timeout has occurred." Ans. 9, 11. Thus, the Examiner apparently relied on Hobson in combination with Willner because Willner describes performing identical actions, i.e., blocking a request, if the password is either wrong or times out. FFs 22-24. The Examiner also found that the combination of Hobson and Willner describes "restarting a system". Ans. 11.

Dell does not dispute that Willner describes a timeout. Dell's position is that neither Hobson nor Willner teaches not halting a boot or reboot in progress during a POST procedure. App. Br. 10 and Reply Br. 7. Specifically, Dell argues that in Hobson the computer is restarted in response to an incorrect BIOS password and that Willner also relates to computer restarting. App. Br. 10 and Reply Br. 7.

Facially, Dell's argument appears to have merit. The Examiner found that the combination of Hobson and Willner describe "restarting a system". It would appear to us that if that were true then the combined Hobson/Willner computer's "boot or reboot in progress" would be halted; which is the opposite of what Dell is claiming. However, the Examiner got it right, as discussed below, when he explained that the restarting "merely starts the POST procedure over again." Ans. 11.

Hobson describes that a computer start-up or POST processing begins with a system BIOS execution at step [**300**]. FF 11. At step [**302**], the system determines whether a user wants to change the current resource settings (CRS). FF 12. If there are no desired changes to be made, the system continues and loads the CRS and may also load the possible resource settings (PRS) at steps [**306**] and [**308**]. FF 13. The operating system is loaded at step [**310**] following the completion of the BIOS start-up routines.

FF 14. If instead the user wants to change system resource settings at step [**302**], the user enters a keystroke such as F10 (i.e., a pre-selected input characteristic). FF 15. The system receives the F10 modify resource command and executes a low-level system set-up application (i.e., a system setup utility). FF 16. The user is prompted for a password if the resources are locked at step [**312**]. FF 17. If the password is entered correctly at step [**314**], the changes entered by the user are saved at step [**316**] and the process returns to step [**302**] where the start-up or POST processing begins again. FF 18. If the password is entered incorrectly at step [**314**], the start-up or POST processing begins again at step [**302**]. With the additional teaching of Willner, the start-up or POST processing would also begin again at step [**302**] when the password times out because Willner describes that identical actions, i.e., blocking a request, are performed when the password is wrong and/or times out. FFs 19, 24. Thus, Hobson and Willner describe that the start-up or POST processing begins again at step [**302**] if either the password is incorrect or times out.

We understand the term "boot" as the process of starting a computer system and the term "reboot" as the process of restarting a computer system. We also understand that the process of booting or rebooting includes execution of the BIOS. This understanding is buttressed by Dell's Specification which describes that when the computer system's power is switched on, the BIOS code begins execution. Spec. 7. Hobson describes that the computer system start-up (i.e., boot) begins with BIOS execution at step [**300**] and the POST processing commences at step [**302**] after the BIOS execution commences at step [**300**]. FFs 11-19. While the combination of Hobson and Willner describes that the POST processing may begin again at

step [**302**] in response to an incorrect password or a timeout, nowhere does Hobson or the Hobson and Willner combination describe that the BIOS execution that begins at step [**300**] is started again. Further, Hobson or the Hobson and Willner combination does not describe that the BIOS execution is halted. In fact, in figure 3 Hobson depicts a continuous loop in which the BIOS start-up routines that began at step [**300**] continue to completion after which the operating system is loaded at step [**310**]. FF 14. Thus, if the BIOS execution is not started again or halted, then it follows that the computer system booting process is not started again (i.e., restarted or rebooted) or halted. Since Hobson or the Hobson and Willner combination do not describe starting the BIOS execution again (i.e., rebooting or restarting the computer) or halting the BIOS execution (halting the boot); we are not persuaded by Dell's argument that Hobson and Willner fail to teach not halting the boot or reboot during the POST procedure.

Further, we are not persuaded by Dell's argument that Willner relates to computer restarting because Dell has not directed us to, and we can not find, where Willner describes restarting a computer. Instead, Willner describes a process of cross domain association mapping of users and services. FFs 20, 21. Willner describes that when a user requests a service, the CSA determines whether a password is necessary. FF 22. If a password is necessary and the received password is wrong and/or times out, the user's request is denied. FFs 23, 24.

Dell further argues that the Examiner is in error stating that the Microsoft reference teaches "a timeout to prevent the system to be halted by an unauthorized user." Reply Br. 8 and Ans. 11. Dell's argument is conclusory since Dell has not specifically explained what is the error in the Examiner's

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finding. Moreover, Dell does not dispute the Examiner's finding that Willner describes a timeout.

Dell also argues that the Examiner's combination of the references in making the obviousness rejection arises solely from hindsight based on Dell's invention without any showing, suggestion, incentive or motivation in either reference for the combination. Reply Br. 8-9. The Examiner found that the motivation for combining NEC and Microsoft is to protect the system from crackers or unauthorized users as described in Microsoft. Final Rejection 4 and Ans. 4-5, 9; citing Microsoft 469. The Examiner also found that the motivation for combining NEC and Microsoft with Hobson and Willner is to protect against changing the system resources and blocking a request as described in Hobson and Willner respectively. Final Rejection 5 and Ans. 5, citing Hobson col. 3, ll. 14-26 and Willner col. 12, ll. 14-22. The Examiner found motivation in the references themselves and Dell has not demonstrated error with the Examiner's findings.

For all these reasons, we find that Dell has not sustained its burden of showing that the Examiner erred in finding claims 1, 3-12, 14-24 and 26-32 obvious over NEC, Microsoft, Hobson and Willner.

F. Decision

Upon consideration of the record, and for the reasons given, the Examiner's rejection of claims 1, 3-12, 14-24 and 26-32 under 35 U.S.C. § 103(a) as unpatentable over NEC, Microsoft, Hobson and Willner is affirmed.

AFFIRMED

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DAVID L. MCCOMBS
HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS TX 75202-3789